

VAN NIEUWENHUIZEN  
Appl. No. 10/521,480  
April 9, 2008

**AMENDMENTS TO THE DRAWINGS**

Proposed drawing changes are shown on the attached annotated marked up drawing and are incorporated within an attached proposed replacement sheets of drawings.

Attachment: Replacement Sheet(s)  
Annotated Sheet Showing Changes

**REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested.

The Examiner's attention is drawn to the attached four page Bibliography of references taken from a report written by the inventor concerning the present invention. Also attached is a Form PTO-SB/08a and the IDS fee for this stage of prosecution including a copy of the third reference in this Bibliography. The Examiner's consideration of this reference is respectfully requested.

Should the Examiner wish to see any of the 44 other documents cited in the attached Bibliography, the undersigned will attempt to find and furnish a copy of same upon request.

The finding of allowable subject matter at claims 13, 15, 17 and 19 is appreciatively noted. No further comment will be made with respect to these allowable claims.

It is also noted that there is no prior art-based rejection of claims 6 and 8. Accordingly, it is assumed that claims 6 and 8 are also directed to allowable subject matter without further comment being necessary.

As requested, the drawings have been amended so as to add suitable descriptive legends, eliminate improper shading and otherwise generally clean up the drawings. Accordingly, all outstanding drawing objections are now believed to have been overcome.

In response to the rejection of claim 20 under 35 U.S.C. §101, this claim has been amended exactly as proposed by the Examiner so as to obviate this ground of rejection.

In response to the rejection of claim 8 under 35 U.S.C. §112, second paragraph, claim 8 has been amended so as to correct its dependency and thus avoid a lack of antecedent basis for recitations therein.

Accordingly, all outstanding formal issues are now believed to have been resolved in the applicant's favor.

The rejection of claims 1-5, 7, 9-12, 14, 16, 18 and 20 under 35 U.S.C. §103 as allegedly being made "obvious" based on Litwin '098 in view of Loguinov '285 is respectfully traversed.

Litwin considers a communications network which involves 'dynamic pricing' – that is to say the cost of service depends on how congested the network is. Applicant's invention also relates to communications networks which involve 'dynamic pricing'.

Loguinov nowhere considers 'dynamic pricing'.

A skilled person in the relevant art could not sensibly combine Litwin with Loguinov because the first relies on a user reacting to the varying price of network resource. Loguinov nowhere calculates or produces any prices for network resource. A skilled person could not introduce the rate control algorithms of Loguinov into Litwin since the rate control algorithms of Loguinov take no account of price. Hence, Loguinov's rate control algorithms cannot fit in with the very essence of Litwin which is

to alter prices in order to drive users away from using network resources at times of network congestion.

Applicant's independent claims 1 and 10 require determining the rate to be requested as a function of the difference between the user's willingness to pay and a congestion cost which is the product of a congestion charge and a previously determined data transmission rate, said difference being weighted by a variable parameter. These claims also require communicating the signal to the source, wherein the rate of the data transmission from the source to the user is controlled on the basis of the signal.

The phrase 'said difference being weighted by a variable parameter' is a key claim phrase. The 'varying cost' in paragraph [0017] of Litwin is not a variable parameter which weights the difference between what the user is willing to pay and a congestion cost. Instead it is a varying value (which actually corresponds to the 'congestion charge' in applicant's claims).

Applicant's invention suggests that the rate at which a user sends traffic onto the network should increase when a user finds that he is only willing to pay more than the current cost, and decrease when a user finds that he is willing to pay less than the current cost. To that extent, it is like the proposal by Kelly et al, discussed at page 4 line 19 to page 5 line 2 of the applicant's specification.

But applicant goes further and suggests that the increase or decrease should be further weighted by a variable parameter. This introduces a desirably changeable behavior as explained at page 25 line 10 to page 27 line 2 of the specification.

This feature is not seen in any of the cited prior-art.

Given such fundamental deficiencies of the cited references (whether considered singly or in combination) with respect to the already discussed features of independent claims 1 and 10, it is not believed necessary at this time to discuss additional deficiencies of these references with respect to other features of the rejected claims.

The rejection of claim 2 under 35 U.S.C. §103 as allegedly being made “obvious” based on Litwin in view of Loguinov in further view of Arai ‘470 is also respectfully traversed.

Fundamental deficiencies of both Litwin and Loguinov have already been noted above with respect to parent claim 1. Arai does not supply those deficiencies. Accordingly, it is not believed necessary at this time to discuss the additional deficiencies of this allegedly “obvious” combination of three references.

The rejection of claims 9 and 14 under 35 U.S.C. §103 as allegedly being made “obvious” based on Litwin and Loguinov in further view of Kirkby ‘285 is also respectfully traversed.

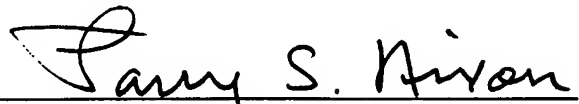
Once again, fundamental deficiencies of Litwin and Loguinov have already been noted above with respect to parent claims 1 and 10. Kirkby does not supply those deficiencies. Accordingly, it is not believed necessary at this time to explain the further deficiencies of this allegedly “obvious” combination of three references.

VAN NIEUWENHUIZEN  
Appl. No. 10/521,480  
April 9, 2008

Accordingly, this entire application is now believed to be in allowable condition  
and a formal Notice to that effect is respectfully solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:   
Larry S. Nixon  
Reg. No. 25,640

LSN:vc  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

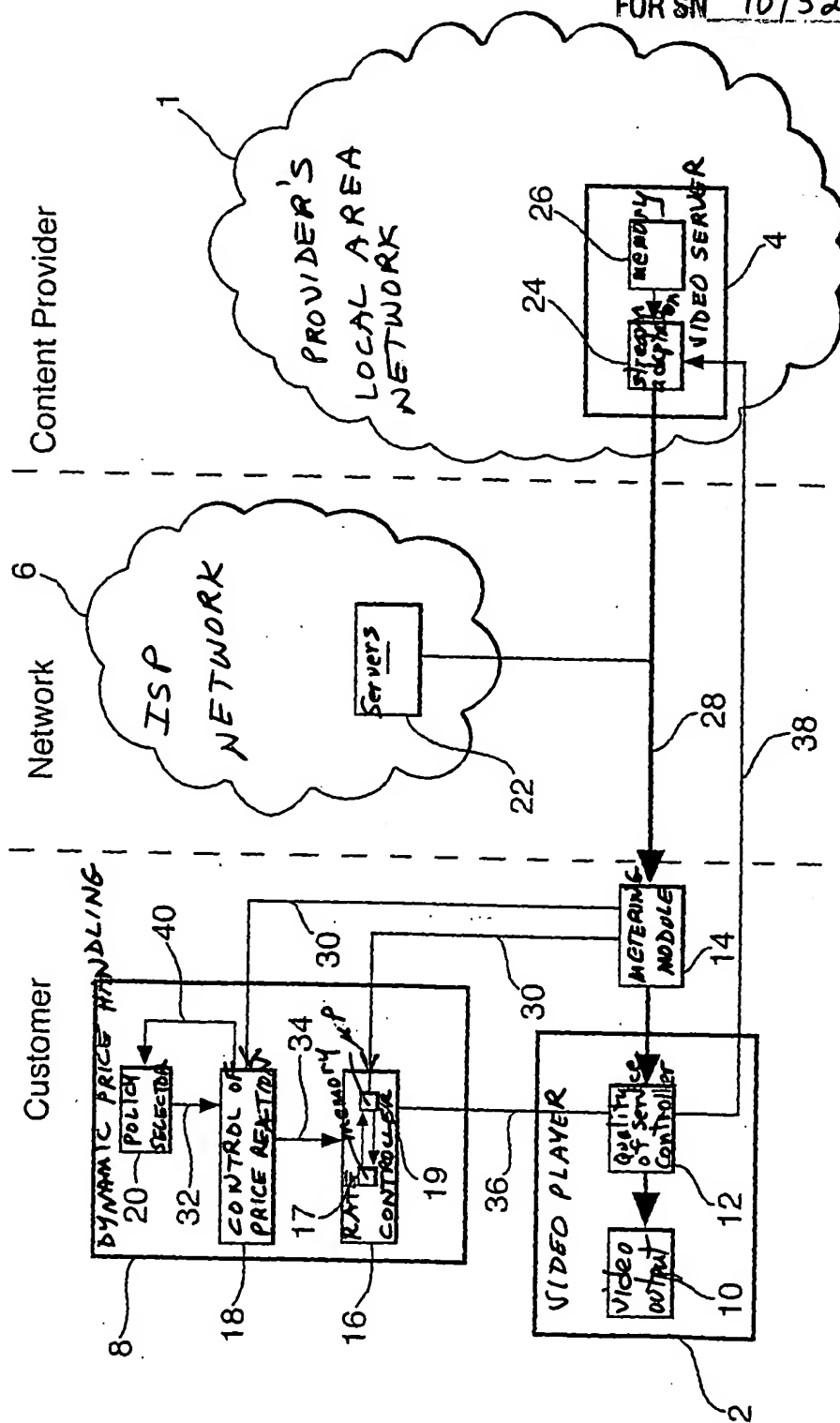
**ABSTRACT OF THE DISCLOSURE**

~~A method of controlling the~~The rate of data transmission to a user via a communications link of a network is controlled wherein resource requests are communicated to a service provider. The resource requests are determined in accordance with an indication of the congestion level on the network and the user's defined parameters, such as their willingness to pay for the resource, wherein the resource request is weighted by a variable parameter, whose value is set in accordance with the congestion level on the network. This allows the rate controller to react efficiently and swiftly to network conditions as well as user defined parameters. By providing a computer programmed to act as a purchasing agent an automatic resource request to a service provider is enabled. An embodiment is described in which audio or video data is streamed to a user on the basis of the resource requests made on the user's behalf and is adjusted on the basis of user and network defined parameters. ~~The invention~~Such techniques could ~~equally also~~ be used to provide appropriate data streaming for many different types of network traffic.



ANNOTATED MARKED UP DRAWINGS  
FOR SN 10/521,480

Fig.1.





2/6

Fig.2(a).

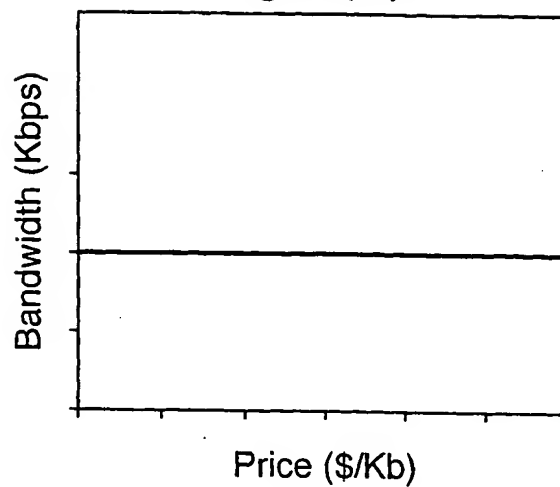
ANNOTATED MARKED UP DRAWINGS  
FOR SN 10/521,480*Clean up*

Fig.2(b).

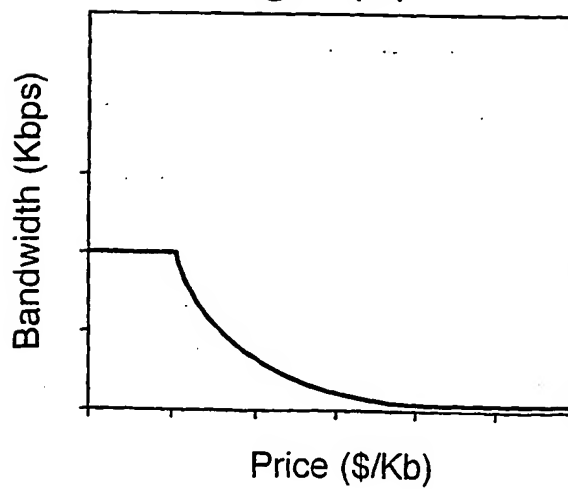
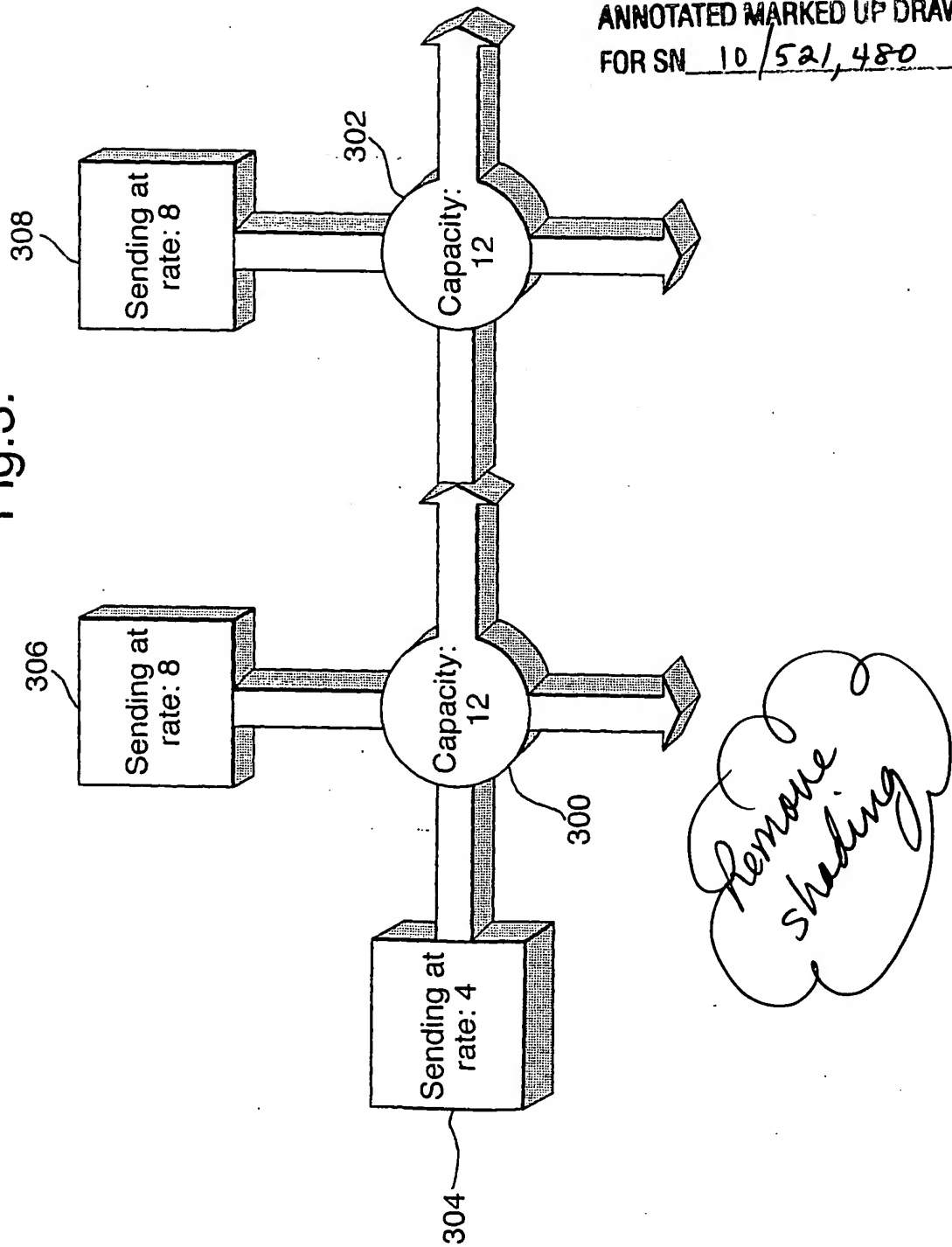
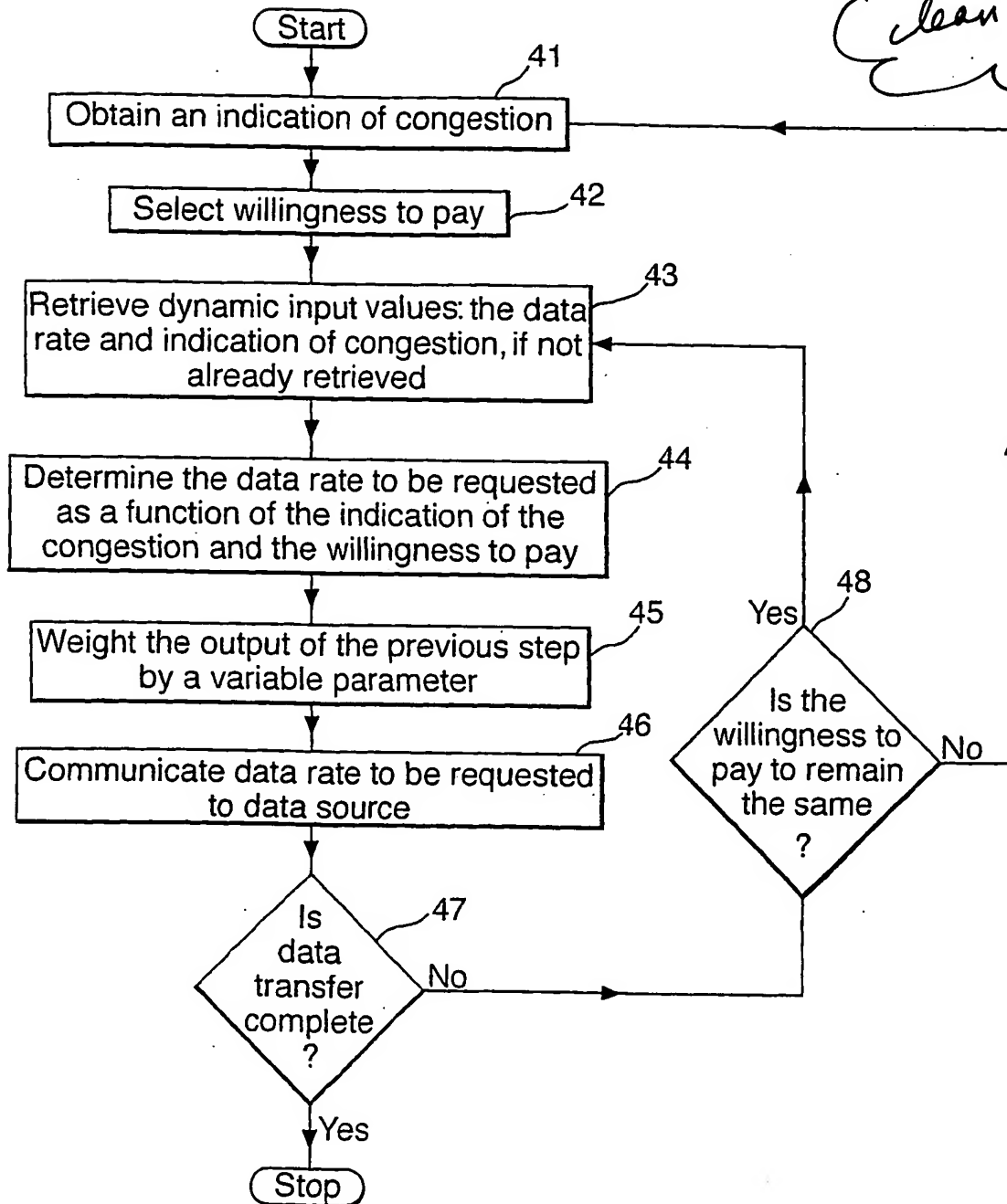


Fig.3.



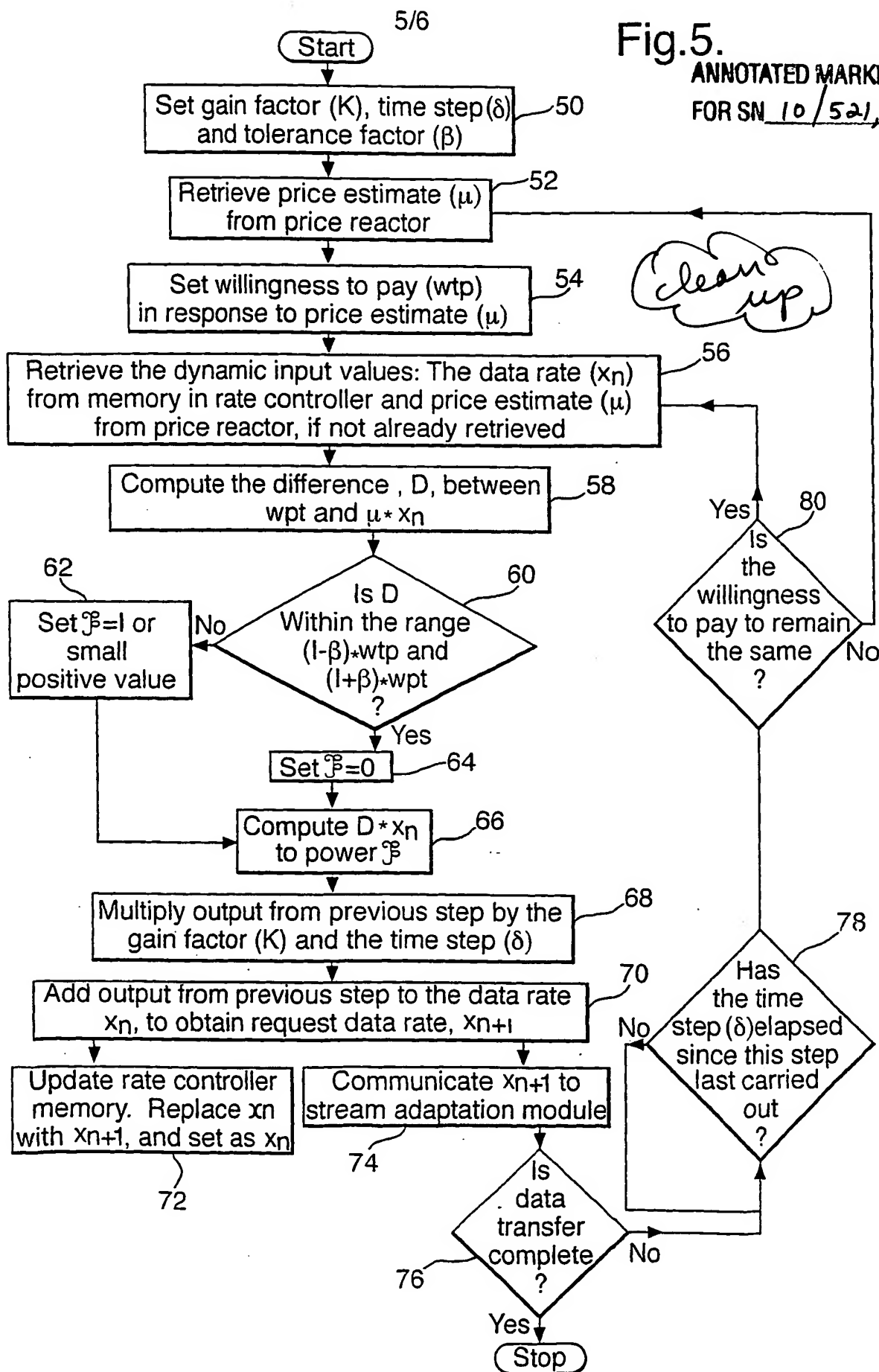
ANNOTATED MARKED UP DRAWINGS  
FOR SN 10/521,480

Fig.4.



5/6

Fig.5.

ANNOTATED MARKED UP DRAWINGS  
FOR SN 10/521,480

6/6

Fig.6.

 ANNOTATED MARKED UP DRAWINGS  
 FOR SN 10/521,480
